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Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Estonia

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

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1. Estonia welcomes the interactive dialogue and the recommendations made during the 2nd cycle of the Universal Periodic Review held in Geneva on 19 January 2016. During the review, Estonia received 181 recommendations. Estonia herewith presents its views regarding the 55 recommendations that were deferred during the adoption of the report of the Working Group on 22 January 2016.

2. **The recommendations formulated during the interactive dialogue and listed below have been examined and enjoy the support of Estonia:**

123.6. Estonia intends to ratify ICPPED. There are no substantial objections to the ratification and implementation of the convention.

123.20.; 123.21. Estonia is consistently reviewing its international obligations in the field of human rights and considering ratification of human rights treaties to which it is not yet a party.

123.29. Estonia is constantly improving its education system to comply with the fundamental values of education, tackle racism and xenophobia at their very roots and build a culture of human rights in the society. The Basic Schools and Upper Secondary Schools Act marks the importance of values arising from the ethical principles specified in the Constitution, the Universal Declaration of Human Rights, the Convention on the Rights of the Child and the fundamental documents of the European Union (EU). Schools shall build up a school culture respecting democratic and human rights values. Within the learning process, human rights are connected with the cross-curricular core competences (value and cultural; social and civic; self-awareness; communication competence).

123.32.; 123.33.; 123.34.; 123.37. Pursuant to amendments of the Penal Code in force since 2015 the definition of criminal organisations includes organisations the activity of which is directed to commit crimes punishable by three years of imprisonment, such as the offence of inciting social hatred in its aggravated form (i.e., repeated offence or the offence of incitement of hatred with a serious result). Thus, establishing organisations, the activity of which is directed to commit the offence of aggravated incitement of social hatred, discrimination or violence, *inter alia* on the basis of race, and being member in such an organisation, is criminalised. Amendments to the provision defining incitement to social hatred are ongoing to extend criminal liability to cases where the offence is not repeated nor causing serious result. Amendments to the Penal Code, aiming to define racist or other hate motive as an aggravating circumstance for all offences, are ongoing.

123.41. This topic is already well-covered by the Penal Code. Amendments to the Code of Criminal Procedure regarding victim protection were enforced in 2016. An amendment to the Penal Code defining domestic violence as an aggravated assault, was enforced in 2015. The Penal Code foresees punishments for crimes such as threat, physical abuse, torture, rape, etc. Domestic violence cases are investigated and proceed according to existing legislation.

To enable better victim protection, the Victim Support Act will be modified in 2016 and from 1 January 2017, new services for victims of violence against women will be described in the law. State-financed Women's Shelter service includes safe temporary housing, crisis counselling, case management, legal and psychological counselling for women who have fallen victims of violence. Estonia intends to ratify and implement the Istanbul convention of the Council of Europe in the near future.

123.46. Pursuant to the Constitution, the family, which is fundamental to the preservation and growth of the nation and which constitutes the foundation of society, enjoys the protection of the state.

123.47. All necessary measures to ensure full participation of all groups of individuals in the political and public affairs of the country have been introduced. The

rights, freedoms and duties of all persons, set out in the Constitution, apply equally to citizens of Estonia and to citizens of foreign states and persons with undetermined citizenship in Estonia.

123.48. Two national integration plans have been carried out in Estonia: Integration in Estonian Society 2000–2007 and Estonian Integration Plan 2008–2013. At the end of 2014, the government approved the Integration Development Plan "Integrating Estonia 2020" and its implementation plan for 2014–2017.

Integrating Estonia 2020 aims *inter alia* to preserve the culture and language of the ethnic minorities, ensure increasing tolerance towards different groups of society and a stronger civic identity.

The development plan supports three broader courses of action: 1) increasing openness of the whole society and making attitudes towards integration more supportive; 2) continuing support for permanent residents with foreign background who have not yet fully integrated into society; 3) supporting adaptation and integration of new immigrants.

123.50. The status and rights of national ethnic and linguistic minorities on the legislative and judicial front as well as in the policy front have been guaranteed by the Constitution and other legal acts.

123.51. The use of Estonian and other languages in Estonia is regulated by the Language Act. In local governments where at least half of the permanent residents belong to a national minority, everyone has the right to approach state and local government authorities and receive responses in Estonian or the language of the national minority. Regardless of the proportion of ethnic groups in the region, ethnic minorities may, with mutual consent, use their mother tongue during oral communication with state authorities and local governments, notary, bailiff, and sworn translator, and also at Estonia's foreign missions. Authorities may accept minority-language documents without translation. All ministries and governmental authorities have Russian and English websites. In language use, local governments take the needs of persons belonging to national minorities into account. In regions with a high rate of persons belonging to national minorities, legal advice and services of the employment office are provided in the respective, Russian, language. Besides Estonian and Russian, public services are also available in English all over Estonia.

123.52. Government pays special attention to promote overall employment. All services that support employment are provided in Estonian and Russian. The Strategy of Integration and Social Cohesion of Estonia sets the target to reduce differences of unemployment rates among Estonians and residents of other nationalities. Special targets and measures are foreseen in the draft Welfare Development Plan. There are measures and investments foreseen in the Estonian Regional Development Strategy and Ida-Viru County Action Plan 2015-2020 to promote economy, create workplaces and improve the living environment in Ida-Viru County. According to the recent integration monitoring, perceptible discrimination at the workplace on the ground of nationality among non-Estonians has decreased from 37% in 2008 to only 12% in 2015.

123.53. Legislation is under constant review and changes will be imposed if considered necessary.

3. The following recommendations do not enjoy the support of Estonia and will be noted:

123.1.; 123.2. Estonia is considering the recommendation to sign and ratify OP-CRC-IC.

123.3.; 123.4.; 123.5. The recommendation to sign and ratify the Optional Protocol to ICESCR is under consideration.

123.7.; 123.8.; 123.9.; 123.10.; 123.11.; 123.12.; 123.13.; 123.14. Estonia does not plan to ratify ICRMW or the ILO Convention no. 189. EU common immigration policy guarantees equal treatment of third country citizens.

123.13.; 123.15.; 123.16.; 123.17.; 123.18.; 123.19. Estonian Government fully supports the campaign launched by the UNHCR and the objectives to eradicate statelessness within the decade ahead. However, Estonia maintains its current position not to accede the conventions of 1954 and 1961 for the time being. The provisions of these conventions are less comprehensive than the rights currently enjoyed by residents of Estonia with undetermined citizenship. Estonia believes that its accession to the 1954 and 1961 Conventions will not provide significant benefits to persons with undetermined citizenship.

123.22.; 123.23.; 123.24. No new institutions are currently planned. The institution of the Gender Equality and Equal Treatment Commissioner has been created in order to help people protect their rights and to avoid any form of discrimination. Among other tasks, the Commissioner also endeavours to ensure that people in various minority groups are not treated unequally.

123.25. Resources of the Gender Equality and Equal Treatment Commissioner, including their sufficiency for planned activities are subject to annual budgetary negotiations. Starting from 2015, the Commissioner has had additional resources for supporting non-discrimination and gender mainstreaming in the use of the EU Structural Funds. Additional resources have been allocated for the Commissioner to fulfil the duties of the independent monitoring mechanism of the CRPD.

123.26. Estonia does not plan to adopt a separate action plan to implement the UN Guiding Principles on Business and Human Rights, but is continuously including these principles in other national plans and relevant documents.

123.27. The Integration Development Plan "Integrating Estonia 2020" and other documents contain indicators that also concern human rights.

123.28. Rules prohibiting discrimination are established by national law. If the rights of a person are violated due to discrimination, he or she has the right to file an application with labour dispute committee or the Gender Equality and Equal Treatment Commissioner or a claim with the court.

The Language Act establishes the basis of requirements for language proficiency in certain positions, which serve only public interests: to ensure that (public) services and information are available in the Estonian language. The language requirements for employment have been developed in cooperation with employers' organisations and take account of the requirements imposed in professional standards. The requirements are also in accordance with the actual character of work and the situation of the use of language. Language requirements are not imposed or applied to the employee on the basis of nationality or mother tongue.

123.30.; 123.31. Estonia supports a broader approach to combating intolerance and currently no separate strategies for combating racism are planned. The "Integrating Estonia 2020" development plan supports the multiculturalism of society and builds on the Estonian Constitution which sets the goal to guarantee the preservation of the Estonian people, language, culture and the right of each individual to preserve his or her ethnic identity. No one may be discriminated on the basis of nationality, race, colour, sex, language, origin, religion, political or other views, property or social status, or on other grounds. Equal treatment is more specifically regulated under the Equal Treatment Act prohibiting

discrimination of individuals on grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation.

123.35.

123.36. The required levels for language proficiency are reasonable and in accordance with international human rights standards.

The punitive role of the Estonian Language Inspectorate has considerably decreased and is being replaced by a more supportive role. On 1 January 2015 an amendment of the Penal Code and related acts entered into force decriminalising a number of cases where inspectors needed to impose fines. Non-sufficient command of state language is no longer an administrative offence. Language inspectors shall provide adequate and realistic amount of time in the prescription for gaining the level of state language needed in a certain occupation. No punishments were imposed in 2015.

The Inspectorate is flexible in its practice and allows guaranteeing the necessary level of state language in an institution or business also by organisational means instead of replacing a person. E.g. a doctor without a sufficient command in Estonian is accompanied by a bilingual nurse; in a shop an Estonian language client is directed to a sales person who knows Estonian etc.

123.38.

123.39.; 123.40. The Registered Partnership Act entered into force on 1 January 2016. The necessary implementing acts are being processed by *Riigikogu*. The Ministry of Justice is doing everything in its power to facilitate the application of the Registered Partnership Act until the implementing acts are adopted.

123.42. Estonia sees no reason to adopt a separate law on human trafficking. In 2012, amendments were made to the Penal Code defining human trafficking and criminalising all its elements in accordance with international and European standards. The new regulation includes an extensive definition of the concept of trafficking in persons and foresees imprisonment up to 7 years for this crime and up to 15 years in aggravating circumstances. Specific regulation and punishments are also provided for support to human trafficking, pimping, aiding prostitution, and human trafficking in order to take advantage of minors.

Amendments to the Code of Criminal Procedure regarding victim protection were enforced in 2016 and the Victim Support Act was supplemented in 2013 with an additional section that defines human trafficking victims and foresees services for them. The Aliens Act foresees temporary residence permits for foreigners, willing to cooperate in criminal proceedings.

123.43. According to the Estonian Constitution any Estonian citizen who has attained eighteen years of age is eligible to vote. Only an Estonian citizen of eighteen years of age who has been declared by a court to lack legal capacity is ineligible to vote. The Estonian Constitution stipulates that the participation in elections may be circumscribed by law in the case of Estonian citizens who have been convicted by a court and are serving a sentence in a penal institution.

123.44. The Code of Criminal Procedure has been brought to compliance with the International and European standards of rights to translation, and no further amendments are foreseeable.

123.45. Estonia intends to address the issue in the near future. The Code of Criminal Procedure has already been amended to reform the surveillance procedures, with an effect from 2015.

123.49. The local self-government bodies are formed through a democratic process which cannot be influenced by the authorities through quotas or otherwise.

123.54. Estonia's position is that citizenship cannot be forced on anyone and that everyone has the right to choose his or her citizenship. In recent years, Estonian government has implemented various measures to increase the interest of persons of undetermined citizenship in applying for Estonian citizenship. Several legislative changes have been adopted over the years to facilitate naturalisation procedures, especially for children and the elderly.

123.55. International protection proceedings by the Estonian Police and Border Guard Board (PBGB) are guided by international conventions and the EU and national legislation as well as the recommendations and guidelines of the European Asylum Support Office (EASO) and UNHCR.

Applications for asylum can be submitted to border guard officials in any border point at the Estonian state border, if the alien has no valid visa, travel documents nor Estonian residence permit. All applications for international protection are processed by the PBGB on a case-by-case basis and in an objective and impartial manner. Applicants are guaranteed access to legal assistance and translation services as promptly as available.

The PBGB always considers the necessity of each detention case separately and thoroughly but the necessity and proportionality of detention of asylum applicants are assessed by the court. The detention of asylum applicants is justified in cases where monitoring measures cannot be applied efficiently and considering important circumstances, detention is appropriate, necessary and proportional in relation to that person.

The conditions in the detention centre are in compliance with the standards of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and with the regulations of the EU directive 2008/115/EC. They are under constant surveillance of the Chancellor of Justice and Estonian Red Cross and open to visits by relevant international organisations.

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Belgium

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1. Belgium reaffirms its commitment to the universal periodic review, which has proved to be of great value in promoting and protecting human rights throughout the world.

2. Out of the 232 recommendations made during the dialogue, Belgium immediately accepted 161, of which 26 were deemed to have already been implemented or were being implemented, and took note of another 36. Belgium deferred consideration of 35 recommendations. These have now been considered and Belgium presents its replies herewith.

3. Belgium supports the following recommendations: 140.1, 140.4, 140.5, 140.6, 140.9, 140.10, 140.11, 140.12, 140.13, 140.15, 140.16, 140.17, 140.18, 140.19, 140.22, 140.24, 140.26, 140.27, 140.29, 140.35.

4. Belgium accepts the following recommendations in part: 140.14, 140.28. Belgium agrees to adopt a national action plan to combat racism; and to guarantee women effective access to justice in cases of harassment and sexual and domestic violence.

5. The following recommendations are supported by Belgium, which considers that they have already been implemented or are being implemented: 140.8, 140.21, 140.25, 140.34.

6. Belgium takes note of recommendations 140.2, 140.3, 140.7, 140.20, 140.23, 140.30, 140.31, 140.32, 140.33 and recalls that it had already taken note of recommendations 141.1 to 141.36. These are recommendations that Belgium cannot commit to implementing at present, irrespective of its agreement or otherwise with the underlying principles. Belgium submits the following information by way of explanation for its decision regarding these recommendations.

7. 140.2, 140.3. Minorities in Belgium are protected by numerous national and international mechanisms, but the Framework Convention for the Protection of National Minorities has not yet been ratified. On signing the Framework Convention, Belgium entered the following reservation: "The Kingdom of Belgium declares that the Framework Convention applies without prejudice to the constitutional provisions, guarantees or principles, and without prejudice to the legislative rules which currently govern the use of languages. The Kingdom of Belgium declares that the notion of national minority shall be defined by the inter-ministerial conference of foreign policy." This issue falls under the remit of federal and federated entities. Despite the serious efforts made to date, the proposals put forward have not met with the agreement of all the parties. All the authorities are nevertheless committed to actively continuing with this work. A working group under the inter-ministerial conference of foreign policy has been set up to that end.

8. 140.7, 140.14, 140.20. Belgium undertakes to develop a national action plan against racism, xenophobia and intolerance. In fact it is already possible to prosecute and punish acts of racism, discrimination and xenophobia in Belgium. From a legal standpoint, the wording of the recommendation suggests that it is possible to prevent all forms of racism, discrimination and xenophobia by means of a legislative act, which is not the case in practice.

9. 140.23. Belgium has an effective monitoring body, the Committee P, which is an independent committee under the authority of parliament, and this provides all necessary guarantees of the independence, effectiveness and objectivity of monitoring. The independence, neutrality and impartiality of investigations conducted by the Committee P investigating service, or of the members of that service, have never been called into question.

10. 140.30. The Belgian legal framework as it stands makes it possible to punish violence against children. Deliberations are under way to determine whether adjustments to the legal framework are necessary or desirable.

11. 140.31. The fight against poverty, especially child poverty, is a priority for the Government. A second national plan to combat child poverty is in preparation. At present the Belgian Government cannot undertake to develop a data-collection system specifically on child poverty.

12. 140.32. The question of the right to food is addressed by various laws and social measures in Belgium. The Belgian Government has no plans for generic legislation in this area.

13. 140.33. Belgium attaches great importance to equal rights for persons with disabilities. Equal rights and protection against discrimination are enshrined in the Belgian Constitution and the legislation of the various levels of government. Belgium therefore considers that it is not appropriate to establish a separate legal framework for particular rights such as the rights to education and to employment. At both the federal level and the level of the federated entities measures are taken and action plans are implemented to effectively guarantee the rights of persons with disabilities to education, employment and medical treatment.

14. 141.1. Following its first universal periodic review in 2011, Belgium reviewed its reservations and interpretative declarations to human rights treaties, in the light of developments in Belgium. This review led to the conclusion that these reservations and declarations were still justified. In many cases their purpose is to clarify the legal situation in Belgium, and they are in no way an impediment to compliance with or implementation of these treaties in Belgium.

15. 141.2, 141.3, 141.4, 141.5, 141.6, 141.7. Belgium attaches great importance to respect for migrants' rights but cannot at present consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. One of the peculiarities of the Convention is that it grants equal rights to migrant workers in a regular situation and migrant workers in an irregular situation. This approach is different from the one taken in national and European Union regulations, which make a clear distinction between the two kinds of migrants.

16. 141.8. Given that the aims of the 1960 Convention against Discrimination in Education have already been achieved de facto by other later instruments, Belgium does not consider it necessary to ratify that convention.

17. 141.10. Belgium is committed to working towards the establishment of a national independent human rights mechanism that complies with the Paris Principles. However, given the complexity of the issue and the number of stakeholders involved, a deadline of the end of 2017 appears unrealistic. It is expected to be in place by the end of the parliamentary term in 2019.

18. 141.11. Belgium tends rather to take a sector-by-sector approach to the promotion and protection of human rights and it has already developed several action plans in various matters (e.g., combating all forms of gender-based violence, combating homophobia and transphobia, combating trafficking in human beings, combating poverty, and children's rights, at the level of the federated entities), which cover a wide range of priority areas of human rights.

19. 141.12. Belgium has maintained an open invitation to all special rapporteurs since 2001. Accordingly, any rapporteur or working group that so requests will be made welcome in Belgium at their earliest convenience.

20. 141.13. Given the importance attached to freedom of association as enshrined in its Constitution, Belgium does not consider it appropriate or effective to declare organizations illegal. The legislation currently at its disposal allows it to take effective action in this area. It is recalled that incitement to racial hatred is one of the legal limitations on the freedom of

expression and as such is punishable in Belgium under article 20 of the Anti-Racism Act. Organizations with legal personality may be prosecuted on those grounds and sentenced (criminal fines). They cannot be ordered to disband but in practice that is often what happens. Members of organizations or de facto associations (the majority) may be prosecuted individually under article 20 or 22 of the Act (prohibiting membership of a group or association which manifestly and repeatedly advocates racial discrimination or segregation, or the lending of assistance to such a group) and sentenced as appropriate to fines and/or prison terms. Numerous court decisions have already been taken in this context in Belgium.

21. 141.14. Belgium wishes to clarify that there is no legislation governing due process and imprisonment with specific reference to terrorism. The standards of ordinary law therefore apply. In addition, any action by the police is part of their official mission and must be carried out in accordance with the strict conditions set by the law. The law clearly prohibits any discrimination based on various protected criteria, such as ethnicity, including in the drafting of official documents or records by the police, and provides for criminal sanctions against any police officer found guilty.

22. 141.15. Belgium considers that its definition of torture is consistent with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; indeed it goes even further, since the Belgian Criminal Code punishes such acts when committed by private individuals as well as when committed by officers of the State.

23. 141.16. Incidents of excessive use of force by public officials are subject to impartial investigation and prosecution in Belgium. If the facts are proved, the perpetrators are punished. Under certain conditions they may, like any other citizen, be granted non-custodial alternatives (deferment of judgment, suspended sentence, probation, community service). In short, racism, discrimination and incitement to racial or religious hatred are prohibited in Belgium and punished accordingly.

24. 141.17. Specific reforms are under way. In effect what is crucial is not to reform the prison system but to properly implement the measures taken to improve prison conditions. Belgium has taken a series of initiatives in recent years to reduce prison overcrowding. Three new prisons have been opened and more new prisons are planned. Belgium has also launched a series of investment initiatives to refurbish existing prisons (national report, paras. 18-20).

25. 141.18. The improvement of prison conditions receives special attention at all times.

26. 141.19. The supervision of women prisoners is not the job of the criminal police (*police judiciaire*). There is therefore no direct contact between such officials and women prisoners.

27. 140.28, 141.20, 141.21, 141.22, 141.23, 141.24. Belgium does not deem it appropriate to adopt additional legislation criminalizing all acts of violence against women; the various possible forms of violence are already criminal offences under numerous laws. An offence specifically relating to women would necessarily be of limited scope, whereas a range of offences, reflecting the various types of actions and specifying aggravating circumstances, would seem to be a more effective basis for targeted prosecution. Lastly, it should be recalled that marital and partner rape is specifically punishable (Criminal Code, art. 375) and that violence against a spouse or partner is an aggravating circumstance (Criminal Code, art. 410, on intentional homicide not categorized as murder, and intentional bodily injury; in 2003 an augmented penalty was added).

28. 141.25. Pretrial detention is not systematically used in Belgium as there are already alternative measures (national report, para. 10).

29. 141.26. Belgium recognizes the valuable contribution that families can make to the strengthening of our societies, and understands the need to support them in their role, while also recognizing the diversity of forms that families can take. Belgium respects the obligation of States to promote and protect the human rights of individual members within families, in accordance with article 23 of the International Covenant on Civil and Political Rights.

30. 141.27. The Belgian Constitution provides for the separation of State and religion and the State may therefore not interfere in the organization of religious groups. Nevertheless, certain religious practices may be regulated (for example, the ritual slaughter of animals), in collaboration with the representative organization of Muslims.

31. 141.28, 141.29, 141.32. In Belgium, the freedom of religion is protected by the Constitution and a very comprehensive legal framework prohibits direct and indirect discrimination, including discrimination based on religion. However, the freedom to express one's religion or belief may be subject to restrictions, as provided in article 18 of the International Covenant on Civil and Political Rights. There is no legislation regulating the wearing of the veil in schools. It is up to each educational establishment to decide to authorize or prohibit such distinctive signs under its rules and regulations.

32. 141.30, 141.31. Belgium considers it important to retain the offences of slander and defamation, for protection should cover not just people's physical integrity but also their honour and reputation. Victims can opt for a civil procedure, but it is not always easy to adduce evidence in these matters and the investigative methods available to the public prosecutor (or the investigating judge) may be the only way to establish the facts. Thus, as far as the constituent elements of such offences are concerned, these do not constitute a disproportionate impairment of the freedom of expression as enshrined in the Belgian Constitution.

33. 141.33. Belgium does not intend to withdraw its declaration on article 2 of the International Covenant on Economic, Social and Cultural Rights and of the Convention on the Rights of the Child in respect of the principle of non-discrimination. Belgium does not consider it incompatible with article 2. On the contrary, it is consistent with the interpretation of this principle given by the Belgian Constitutional Court, the European Court of Human Rights and both committees. Thus, making a distinction between nationals and foreigners is not discriminatory when it is based on objective and reasonable criteria that are accepted by all democratic societies.

34. 141.34. The detention of asylum seekers at the border has never been automatic and when it happens it is carried out in accordance with international obligations.

35. 141.35, 141.36. It is not up to the Belgian State to prepare studies on the impact on the human rights of local communities in third countries of agro-fuel projects promoted by Belgian companies. However, a national action plan on businesses and human rights, which includes a component on raising awareness among companies about human rights, is being finalized (national report, para. 85).